

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RONALD and DEBORAH KEAL,

Plaintiffs,

v.

THE STATE OF WASHINGTON *et al.*,

Defendants.

Case No. C05-5737RJB

ORDER DIRECTING SERVICE BY  
U.S. MARSHAL

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Mr. Keal has been granted leave to proceed *in forma pauperis*. Plaintiffs have provided several service copies and filled out service forms. By the courts count there are 43 named defendants in this action. Plaintiff has provided 43 marshal service forms. There are only 39 copies of the amended complaint for service. The clerk is directed to send a courtesy copy of the complaint to the Washington State Attorney General's Office Criminal Justice Division and, **the clerk is directed to effect service on the first 39 defendants listed in the amended**

1 **compliant. If the plaintiffs wish the court to attempt service on C/O Judd, C/O Flemming,**  
2 **C/O Lane, or Chaplain Brill plaintiffs will have to provide copies of the amended complaint**  
3 **for service on those four persons and bring a motion so the matter is noted on the court's**  
4 **calendar.** Otherwise the clerk is directed to provide for service as provided below.

5 (1) Service by United States Marshal.

6 It is hereby ORDERED that the United States Marshal shall send the following to each  
7 named defendant for whom there is a filled out service form by first class mail: a copy of the  
8 complaint and of this Order, two copies of the Notice of Lawsuit and Request for Waiver of Service  
9 of Summons, a Waiver of Service of Summons, and a return envelope, postage prepaid, addressed to  
10 the Clerk's Office. All costs of service shall be advanced by the United States. The Clerk shall  
11 assemble the necessary documents to effect service.

12 (2) Response Required

13 Defendants shall have **thirty (30) days** within which to return the enclosed Waiver of Service  
14 of Summons. Each defendant who timely returns the signed Waiver shall have **sixty (60) days** after  
15 the date designated on the Notice of Lawsuit to file and serve an answer or a motion directed to the  
16 complaint, as permitted by Rule 12 of the Federal Rules of Civil Procedure.

17 Any defendant who fails to timely return the signed Waiver will be personally served with a  
18 summons and complaint, and may be required to pay the full costs of such service, pursuant to Rule  
19 4(d)(2). A defendant who has been personally served shall file an answer or motion permitted under  
20 Rule 12 within **thirty (30) days** after service.

21 (3) Filing and Service by Parties, Generally.

22 All original documents and papers submitted for consideration by the court in this case, are to  
23 be filed with the Clerk of this court. The originals of all such papers shall indicate in the upper right-  
24 hand corner the name of the Magistrate Judge to whom the copies are to be delivered. The papers  
25 shall be accompanied by proof that such documents have been served upon counsel for the opposing  
26 party (or upon any party acting *pro se*). The proof shall show the day and manner of service and  
27 may be written acknowledgment of service, by certificate of a member of the bar of this court, or by

1 affidavit of the person who served the papers.

2 (4) Motions.

3 Any request for court action shall be set forth in a motion, properly filed and served. The  
4 motion shall include in its caption (immediately below the title of the motion) a designation of the  
5 Friday upon which the motion is to be noted upon the court's calendar. That date shall be the third  
6 Friday following filing of the motion (fourth Friday for Motions for Summary Judgment). All briefs  
7 and affidavits in opposition to any motion shall be filed and served not later than 4:30 p.m. on the  
8 Monday immediately preceding the Friday appointed for consideration of the motion. If a party fails  
9 to file and serve timely opposition to a motion, the court may deem any opposition to be without  
10 merit. The party making the motion may file, not later than 4:30 p.m. on the Thursday immediately  
11 preceding the Friday designated for consideration of the motion, a response to the opposing party's  
12 briefs and affidavits.

13 (5) Motions for Summary Judgment

14 If one of the parties files a motion for summary judgment pursuant to Federal Rules of Civil  
15 Procedure 56, the opposing party should acquaint him/herself with Rule 56. Rule 56 requires a  
16 nonmoving party to submit affidavits or other evidence in opposition to a motion for summary  
17 judgment if the moving party has shown the absence of issues of material fact and an entitlement to  
18 judgment as a matter of law. A nonmoving party may not rest upon the mere allegations or denials  
19 of prior pleadings. Rather, successful opposition to a motion for summary judgment requires the  
20 nonmoving party to set forth, through affidavits or other evidence, specific facts showing a genuine  
21 issue for trial. Failure by the nonmoving party to oppose a summary judgment motion or to present  
22 counter evidence could result in the Court accepting the moving party's evidence as the truth, and  
23 entering final judgment in favor of the moving party without a full trial. Rand v. Rowland, 113 F.3d  
24 1520 (9<sup>th</sup> Cir. 1997).

25 (6) Direct Communications with District Judge or Magistrate Judge

26 No direct communication is to take place with the District Judge or Magistrate Judge with  
27 regard to this case. All relevant information and papers are to be directed to the Clerk.

1 (7) Clerk's Action

2 The Clerk is directed to send a copy of this Order and of the General Order issued by the  
3 Magistrate Judges to plaintiff.

4 DATED this 20<sup>th</sup> day of January, 2006.

5 /S/ J. Kelley Arnold

6 J. Kelley Arnold

7 United States Magistrate Judge  
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